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OFFICE OF PETITIONS

In re Application :
Asako, et al. :
Application No. 10/004,115 : PATENT TERM ADJUSTMENT
Filed: December 6, 2001 :
Dkt. No.: 7372-72249 :
:

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b)," filed September 29, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is GRANTED.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 162 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 15 days, as indicated on the Determination of Patent Term Adjustment mailed July 22, 2004, to 162 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 169 days can be attributed to the Office. The adjustment began February 7, 2003, the day after the date that is fourteen months from the date the application was filed, and ended July 25, 2003, the date the Restriction Requirement was mailed. There were no further delays attributed to the Office.

The Office errantly entered November 15, 2002 as the date a proper response to the Notice mailed March 21, 2002 was received when in fact, the November 15th 2002 submission was a timely response to a Notice mailed August 23, 2002. Accordingly, the reduction of 147 days is in error and has been restored.

The adjustment of 169 days, however, was properly reduced seven days in connection with the supplemental response submitted February 13, 2004. A non-final Office action was mailed November 19, 2003. A response was timely submitted February 6, 2004, however, a supplemental response was submitted February 13, 2004.

In accordance with 37 CFR 1.704(c)(8), any adjustment under 37 CFR 1.703 shall be reduced as a result of the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed. The period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. Thus, the delay began February 6, 2004, the date the response to the non-final Office action was filed, and ended February 13, 2004, the date the supplemental response was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 162 days.

The required fee of \$200.00 for an application for patent term adjustment has been charged to Deposit Account No. 06-1135 as authorized in the instant application for PTA.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation